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TO USMISSION GENEVA IMMEDIATE

INFO AMEMBASSY KIGALI IMMEDIATE

AMEMBASSY LONDON IMMEDIATE

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TAGS: PHUM, PREL, PREF, AORC, RW

SUBJECT: UN HUMAN RIGHTS PROGRAM IN RWANDA

REF: GENEVA 008006

1. LOU - ENTIRE TEXT.

2. WE WELCOME HCHR'S INITIATIVE TO GET ITS ACT TOGETHER

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UNITED STATES DEPARTMENT OF STATE

REVIEW AUTHORITY: ARCHIE M BOLSTER

DATE/CASE ID: 18 MAR 2004 200303979

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IN RWANDA, AS REFLECTED IN THE PRELIMINARY OPERATIONAL PLAN DESCRIBED IN GENEVA 8006. WE HAVE, HOWEVER, SEVERAL CONCERNS WITH RESPECT TO THE RELATIONSHIP BETWEEN THE PROPOSED FIELD OPERATION IN KIGALI AND THE INTERNATIONAL WAR CRIMES PROSECUTORIAL EFFORT PROPOSED BY THE US.

3. FIRST, WE CONTINUE TO BELIEVE THAT THE OBJECTIVE IN FIELDING A CONTINGENT OF HUMAN RIGHTS MONITORS IS TO PROVIDE AN INTERNATIONAL PRESENCE THAT WILL SERVE AS A DETERRENT TO REVENGE KILLINGS AND OTHER ACTS OF RETRIBUTION. THE PRESENCE OF MONITORS THROUGHOUT THE COUNTRY WILL, IT IS HOPED, HELP KEEP THE LID ON PRESSURES FOR SUMMARY JUSTICE DURING THE PERIOD BEFORE AN INTERNATIONAL TRIBUNAL AND NATIONAL COURTS REACH THE STAGE OF INDICTMENTS, TRIALS AND SENTENCING. MONITORS ALSO

OFFER AN ADDITIONAL ELEMENT OF SECURITY FOR REFUGEES IN CAMPS WHO ARE SEEKING TO DECIDE IF IT IS SAFE TO RETURN TO THEIR HOMES. HOWEVER, THE CREDIBILITY OF MONITORS, AND THUS THEIR EFFECTIVENESS, COULD BE UNDERCUT IF THEY ARE IDENTIFIED AS ACTIVE INVESTIGATORS OF PAST KILLINGS RATHER THAN OBSERVERS OF CURRENT EVENTS.

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4. SECOND, THE HCHR PLAN SEEMS TO ASSUME THAT THE FIELD OPERATION IN KIGALI WILL CONDUCT INVESTIGATIONS FOR BOTH THE COMMISSION OF EXPERTS AND THE WAR CRIMES TRIBUNAL. WE ANTICIPATE, HOWEVER, THAT THE WAR CRIMES CHIEF PROSECUTOR WILL TAKE OVER THE INVESTIGATION PROCESS SOON AFTER HE OR SHE IS APPOINTED, AND WILL WANT TO HAVE AN INDEPENDENT STAFF OF INVESTIGATORS AND PROSECUTORS UNDER HIS OR HER DIRECT CONTROL CONDUCTING ALL INVESTIGATIONS FOR THE PURPOSE OF FUTURE PROSECUTIONS. THIS IS HOW THE YUGOSLAV TRIBUNAL HAS EVOLVED AND WE KNOW THAT IT WOULD BE GOLDSTONE'S INTENTION TO PROCEED IN THIS FASHION IF HE IS GIVEN THE RWANDA MANDATE. WE SUPPORT THIS, SINCE IT IS ESSENTIAL THAT THE CHIEF PROSECUTOR HAVE CONTROL AND DIRECTION OVER THESE INVESTIGATIONS TO ENSURE THAT THEY MEET TRIBUNAL REQUIREMENTS AND DO NOT COMPROMISE HIS OR HER PROSECUTION EFFORTS. WE SUGGEST THAT CONSULTATIONS TAKE PLACE BETWEEN THE CHIEF PROSECUTOR FOR RWANDA AND THE COMMISSION OF EXPERTS AS SOON AS THE FORMER IS IDENTIFIED.

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5. THIRD, WE ARE PRESSING TO HAVE THE SECURITY COUNCIL TAKE ACTION TO AUTHORIZE RWANDA PROSECUTIONS AND ENTRUST GOLDSTONE WITH THIS MANDATE AS SOON AS THE COMMISSION OF EXPERTS SUBMITS ITS INTERIM REPORT, WHICH WE UNDERSTAND WILL OCCUR THIS MONTH. ACCORDINGLY, WE ENVISION A RAPID START OF THE CHIEF PROSECUTOR'S WORK AND ABSORPTION BY HIM OR HER OF OTHER INVESTIGATIVE EFFORTS. AT THAT POINT, WE WILL CHANNEL OUR ASSISTANCE FOR INVESTIGATIVE WORK, INCLUDING FORENSIC ASSISTANCE, TO THE CHIEF PROSECUTOR RATHER THAN THE COMMISSION OF EXPERTS. INSTEAD, THE HCHR PLAN SEEMS TO ASSUME THAT THE US AND OTHER GOVERNMENTS

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WILL BE CONTRIBUTING PERSONNEL FOR FORENSIC INVESTIGATIONS TO THE COMMISSION OF EXPERTS FOR SOME MONTHS TO COME. WE ARE CONCERNED THAT THIS IS NOT REALISTIC, THAT IT WOULD COMPLICATE THE CHIEF PROSECUTOR'S JOB, AND THAT SUCH AN EFFORT COULD BE USED AS AN EXCUSE FOR DELAYING SECURITY COUNCIL ACTION IN SETTING UP THE PROSECUTION.

5. FINALLY, EVEN PRIOR TO SECURITY COUNCIL ACTION ON PROSECUTIONS, WE WOULD BE CONCERNED WITH ANY HCHR INVESTIGATIVE EFFORTS THAT COULD DUPLICATE OR COMPLICATE THE TRIBUNAL'S WORK. FOR EXAMPLE, EXTENSIVE INTERVIEWS BY

HCHR PERSONNEL COULD LEAD TO DUPLICATIVE (AND POSSIBLY INCONSISTENT) STATEMENTS BY KEY WITNESSES; EXTENSIVE EXCAVATIONS OF GRAVES BY HCHR PERSONNEL COULD COMPLICATE OR DETRACT FROM THE EFFECTIVE HANDLING OF FORENSIC EVIDENCE; AND THE REPETITION OF THE SAME INVESTIGATIVE STEPS BY DIFFERENT UN BODIES COULD CONFUSE OR ALIENATE RWANDAN PLAYERS. ACCORDINGLY, WE HAVE TRIED TO STRUCTURE OUR ASSISTANCE TO THE COMMISSION OF EXPERTS TO AVOID DUPLICATION OF WHAT THE TRIBUNAL'S INVESTIGATORS WILL DO; FOR EXAMPLE, DURING THIS PRELIMINARY PERIOD, WE INTEND TO CONDUCT FORENSIC SURVEYS OF GRAVE SITES RATHER THAN EXTENSIVE EXCAVATIONS.

7. WE REQUEST THAT YOU PRESENT THESE CONCERNS TO THE HCHR IN THE MANNER YOU FIND MOST APPROPRIATE. YOU SHOULD REITERATE, AT THE SAME TIME, OUR INTENTION TO ASSIST THE COMMISSION OF EXPERTS AS VIGOROUSLY AS POSSIBLE CONSISTENT WITH THE ABOVE CONSIDERATIONS, AND OUR SUPPORT FOR THE FULL UTILIZATION BY THE TRIBUNAL OF THE WORK AND PERSONNEL

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OF THE COMMISSION OF EXPERTS. WE DO NOT INTEND IN ANY WAY  
TO SLOW DOWN OR HINDER THE COMMISSION OF EXPERTS' WORK AND  
WILL PROVIDE AS MUCH INFORMATION AS POSSIBLE TO THE  
COMMISSION OF EXPERTS TO FACILITATE THE PREPARATION OF  
THEIR INTERIM AND FINAL REPORTS. CHRISTOPHER

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